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| 20686 7590 11/16/2007 DORSEY & WHITNEY, LLP INTELLECTUAL PROPERTY DEPARTMENT 370 SEVENTEENTH STREET SUITE 4700 DENVER, CO 80202-5647 | | | EXAMINER LIU, I JUNG | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/992,348

Applicant(s)

ELLIS, MARGARET SUE

Examiner

Marissa Liu

Art Unit

3691

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 and 62 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-34 and 62 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to a reply submitted 9/5/2007. Claims 1-34 and 62 are pending in the application. After careful consideration of Applicant's arguments, the rejection of claims 1-34 and 62 are maintained as set forth in detail below.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 9, 13-16, 18-34 and 62 are rejected under 35 U.S.C. 102(b) as being unpatentable by McClauey et al., US Patent Number: 5,930,775 (PTO 892 form A).

3. As per claim 1, McClauey et al. teaches a method for obtaining an estimated financial outcome for a pool of loans comprising:

obtaining an estimated value for a property associated with a loan from the pool (abstract; Fig. 6; column 8, lines 48-50);

obtaining an estimated net proceeds amount from a sale of the property associated with the loan (Fig. 6; column 5, lines 31-33; column 6, lines 65-column 7, lines 8; column 8, lines 48-50);

obtaining an estimated liquidation time between a last interest paid date for the loan and a receipt of the net proceeds from the sale of the property (column 2, lines 19-26; column 3, lines 1-31; column 5, lines 1-33; column 7, lines 1-8; Fig. 6; abstract);

obtaining an estimated total debt amount for the loan (Fig. 6);

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deriving the difference between the estimated net proceeds and the estimated total debt to yield an estimated financial outcome from the sale of the property associated with the loan (Fig. 6; column 1, lines 56-67; column 5, lines 61-64; abstract);
applying the estimated financial outcome from the sale of the property associated with the loan yield the estimated financial outcome for the pool (Fig. 6; abstract).

4. As per claim 2, McClauey et al. the method of claim 1 described above. McClauey et al. further teaches wherein the operation of obtaining an estimated value for the property includes applying a property value decision tree to obtain the estimated value for the property (Figs. 1-6; abstract).

5. As per claim 3, McClauey et al. teaches the method of claim 2 described above. McClauey et al. further teaches wherein the operation of applying the property value decision tree includes:

obtaining an actual sales price for the property (Fig. 6); and

setting the estimated value for the property at the actual sales price for the property (Fig. 6).

6. As per claim 4, McClauey et al. teaches the method of claim 2 described above.

McClauey et al. further teaches wherein the operation of applying the property value decision tree includes:

obtaining a contract price for the property (Fig. 6); and

setting the estimated value for the property at the contract price for the property (abstract; Fig. 6).

7. As per claim 9, McCauley et al. teaches the method of claim 2 described above.

McCauley et al. further teaches wherein the operation of applying the property value decision tree includes:

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obtaining an appraisal for the property (Figs. 1-6; abstract; column 5-6); and setting the estimated value for the property as the appraisal of the property (Figs. 1-6; abstract; column 5-6).

8. As per claim 13, McCauley et al. teaches the method of claim 1 described above. McCauley et al. further teaches wherein the operation of obtaining an estimated liquidation time includes applying a liquidation time value decision tree (column 2, lines 19-26; column 3, lines 1-31; column 5, lines 1-33; column 7, lines 1-8; Fig. 1-6; abstract).

9. As per claim 14, The method of claim 13 wherein the operation of applying a liquidation time value decision tree includes:

obtaining a first time factor to account for a payment plan associated with the loan (column 1, lines 25-30; column 2, lines 19-26; column 11, lines 1-7; Fig. 6; abstract); and adding the first time factor to the last interest paid date (column 1, lines 25-30; column 2, lines 19-26; column 11, lines 1-7; Fig. 6; abstract).

10. As per claim 15, McCauley et al. teaches the method of claim 14 described above. McCauley et al. further teaches wherein the operation of obtaining a first time factor to account for a payment plan includes:

determining an end date for the payment plan; determining a current date; subtracting the current date from the end date for the payment plan; and wherein the operation of subtracting generates the first time factor to account for a payment plan (column 1, lines 25-30; column 2, lines 19-26; column 11, lines 1-7; Fig. 6; abstract; column 8, lines 22-60).

11. As per claim 16, McCauley et al. teaches the method of claim 13 described above. McCauley et al. further teaches wherein the operation of applying a liquidation time value

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decision tree includes:

obtaining a second time factor to account for a bankruptcy proceeding associated with the loan and adding the second time factor to the last interest paid date (column 2, lines 19-26; column 3, lines 1-31; column 5, lines 1-33; column 7, lines 1-8; Fig. 6; abstract).

12. As per claim 18, McCauley et al. teaches the method of claim 13 described above.

McCauley et al. further teaches wherein the operation of applying a liquidation time value

decision tree includes:

obtaining a third time factor to account for litigation associated with the loan and adding the third time factor to the last interest paid date (column 2, lines 19-26; column 8, lines 39-47; column 3, lines 1-31; column 5, lines 1-33; column 7, lines 1-8; Fig. 6).

13. As per claim 19, McCauley et al. teaches the method of claim 18 described above.

McCauley et al. further teaches wherein the Operation of obtaining a third time factor to account for litigation associated with the loan includes:

determining if there is litigation associated with the loan and setting the third time factor to twelve months if there is litigation associated with the loan (column 2, lines 19-26; column 5, lines 1-33; column 7-8; Fig. 6; abstract).

14. As per claim 20, McCauley et al. teaches the method of claim 13 described above.

McCauley et al. further teaches wherein the operation of applying a liquidation time value

decision tree includes:

obtaining a fourth time factor to account for foreclosure proceedings associated with the loan and adding the fourth time factor to the last interest paid date (column 2, lines 19-26; columns 3-8; Fig. 1-6).

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15. As per claim 21, McCauley et al. teaches the method of claim 20 described above.

McCauley et al. further teaches wherein the operation of obtaining a fourth time factor to account for foreclosure proceedings associated with the loan includes: determining a foreclosure start date; determining a current date; subtracting the foreclosure start date from the current date; and wherein the operation of subtracting yields the fourth time factor (columns 3-8; Fig. 1-6).

16. As per claim 22, McCauley et al. teaches the method of claim 13 described above.

McCauley et al. further teaches wherein the operation of applying a liquidation time value decision tree includes:

obtaining a fifth time factor to account for a delinquency status associated with the loan; adding the fifth time factor to the last interest paid date (see column 7, lines 52-67; Fig. 6; column 2, lines 19-26; abstract).

17. As per claim 23, McCauley et al. teaches the method of claim 22 described above.

McCauley et al. further teaches wherein the operation of determining a fifth time factor to account for a delinquency status associated with the loan includes:

determining whether the loan has a delinquency status of current, 30 days delinquent, 60 days delinquent, or 90 days delinquent; setting the fifth time factor to two months if the delinquency status is 30 days delinquent; setting the fifth time factor to one month if the delinquency status is 60 days delinquent; setting the fifth time factor to zero months if the delinquency status is 90 days delinquent; and setting the fifth time factor to three months if the delinquency status is current date (see column 7, lines 52-67; Fig. 6; column 2, lines 19-26; abstract).

18. As per claim 24, McCauley et al. teaches the method of claim 13 described above.

McCauley et al. further teaches wherein the operation of applying a liquidation time value

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decision tree includes:

obtaining a sixth time factor to account for a marketing period to sell the property and adding the sixth time factor to the last interest paid date (column 1, lines 25-30; column 2, lines 1-26; column 10, line 33-column 11, line 5).

19. As per claim 25, McCauley et al. teaches the method of claim 24 described above.

McCauley et al. further teaches wherein the operation of obtaining a sixth time factor to account for a marketing period to sell the property includes: determining if an eviction is required; adding two months to the sixth time factor if the eviction is required; determining if the property is a co-op; adding three months to the sixth time factor if the property is a co-op; determining if the property is located in a depressed region; adding twelve months to the sixth time factor if the property is in a depressed region; determining if the property is in bad condition; adding six months to the sixth time factor if the property is in bad condition; determining if the property has a value that exceeds a specified value; and adding two months to the sixth time factor if the property value exceeds the specified value (Fig. 1-6; abstract; column 5-8).

20. As per claim 26, McCauley et al. teaches the method of claim 1 described above.

McCauley et al. further teaches wherein the estimated net proceeds is a function of the estimated value for the property (Fig. 6).

21. As per claim 27, McCauley et al. teaches the method of claim 26 described above.

McCauley et al. further teaches:

obtaining a commission value associated with the sale of the property (Fig. 6); and subtracting the commission value from the estimated value for the property to obtain the estimated net proceeds (Fig. 6).

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22. As per claim 28, McCauley et al. teaches the method of claim 26 described above.

McCauley et al. further teaches:

obtaining an unpaid taxes value associated with the sale of the property (Fig. 6); and
subtracting the unpaid taxes value from the estimated value for the property to obtain the
estimated net proceeds (Fig. 6).

23. As per claim 29, McCauley et al. teaches the method of claim 26 described above.

McCauley et al. further teaches:

obtaining a closing costs value associated with the sale of the property (Fig. 6); and
subtracting the closing costs value from the estimated value for the property to obtain the
estimated net proceeds (Fig. 6).

24. As per claim 30, McCauley et al. teaches the method of claim 26 described above.

McCauley et al. further teaches wherein the operation of estimating a net proceeds from the sale
of the property includes:

obtaining a lien payoff value associated with the sale of the property (Fig. 6); and
subtracting the lien payoff value from the estimated value for the property to obtain the estimated
net proceeds (Fig. 6).

25. As per claim 31, McCauley et al. teaches the method of claim 26 described above.

McCauley et al. further teaches wherein the operation of estimating a net proceeds from the sale
of the property includes:

obtaining a title fee value associated with the sale of the property (column 1, lines 45-55; Figs. 1-
6); and

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subtracting the title fee value from the estimated value for the property to obtain the estimated net proceeds (column 1, lines 45-55; Figs. 1-6).

26. As per claim 32, McCauley et al. teaches the method of claim 1 described above.

McCauley et al. further teaches wherein the estimated total debt is a function of the estimated liquidation time (column 2, lines 19-26; column 7, lines 1-8; Fig. 6; abstract).

27. As per claim 33, McCauley et al. teaches the method of claim 32 described above.

McCauley et al. further teaches wherein the operation of estimating a total debt for the loan includes:

obtaining an amortized balance for the loan (column 9, lines 17-20);

obtaining an interest rate for the loan (column 3, lines 1-22; column 7, lines 1-8);

determining an interest since the last interest paid date, wherein the interest is a function of the interest rate, the amortized balance, and the estimated liquidation time (column 3, lines 1-31; column 7, lines 1-8; column 9, lines 17-20; column 2, lines 19-26; column 5, lines 1-33; Fig. 6; abstract); obtaining a foreclosure cost (Fig. 6; column 8, lines 22-38); summing the foreclosure cost with the interest to yield a first result (Figs. 1-6; column 8, lines 22-38; column 3-4); obtaining a real estate owned marketing cost (Fig. 6); summing the first result with the real estate owned marketing cost to yield a second result (Fig. 6); subtracting the credit from the second result to yield the total debt for the loan (Fig 6).

28. As per claim 34, McCauley et al. teaches the method of claim 1 described above.

McCauley et al. further teaches wherein the operation of applying includes determining an estimated financial outcome for each loan in the pool, and summing the estimated financial outcome for each loan to yield the estimated financial outcome for the pool (abstract; Fig. 6).

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29. As per claim 62, McClauey et al. teaches the method of claim 1 described above.

McClauey et al. further teaches computer readable medium containing instructions (abstract; column 6, lines 50-55).

Claim Rejections - 35 USC § 103

30. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

31. Claims 5-8 and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over McClauey et al., US Patent Number: 5,930,775 in view of May, US Pub. No.: 2002/0059136 A1 (PTO 892 form B).

32. As per claim 5, McClauey et al. teaches the method of claim 2 described above.

McClauey et al. further teaches wherein the operation of applying the property value decision tree includes:

obtaining a list price for the property (Fig. 6);

obtaining an appraisal for the property (Fig. 6); and

McClauey et al. does not teach the following:

setting the estimated value for property at the lesser of the list price and the appraisal.

May teaches the following:

setting the estimated value for property at the lesser of the list price and the appraisal (§ 0003; § 0010; § 0034).

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Therefore, it would be prima facie obvious to one of ordinary skill in the art at the time the invention was made to add setting the estimated value for property at the lesser of the list price and the appraisal feature to the method of McClauey et al. because May teaches that adding the feature helps an individual to reduce the mortgage guaranty insurance premium of a mortgage (§ 0010).

33. As per claim 6, McClauey et al. teaches the method of claim 2 described above.

McClauey et al. further teaches wherein the operation of applying the property value decision tree includes:

obtaining a list price for the property (Fig. 6);

McClauey et al. does not teaches:

obtaining a first broker price opinion for the property;

obtaining a second broker price opinion for the property;

averaging the first broker price opinion and the second broker price opinion; and

setting the estimated value for the property at the lesser of the list price and the average of the first broker price opinion and the second broker price opinion.

May teaches:

obtaining a first broker price opinion for the property (Fig. 1-5; § 0003; § 0010; § 0034);

obtaining a second broker price opinion for the property (Fig. 1-5; § 0003; § 0010; § 0034);

The steps: setting the estimated value for the property at the lesser of the list price and the average of the first broker price opinion and the second broker price opinion is merely a design choice, please refer to claim 5 rejection described above.

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Therefore, it would be prima facie obvious to one of ordinary skill in the art at the time the invention was made to add obtaining a first broker price opinion for the property and obtaining a second broker price opinion for the property features to the method of McClauey et al. because May teaches that adding the feature helps an individual to reduce the mortgage guaranty insurance premium of a mortgage (§ 0010).

34. Claim 7 is equivalent of claim 5 and claim 6. Please refer to claim 5 and 6 rejection.

35. Claim 8 is equivalent of claim 5 and claim 6. Please refer to claim 5 and 6 rejection.

36. Claim 10 is equivalent of claim 5 and claim 6. Please refer to claim 5 and 6 rejection.

37. Claim 11 is equivalent of claim 5 and claim 6. Please refer to claim 5 and 6 rejection.

38. Claim 12 is equivalent of claim 5 and claim 6. Please refer to claim 5 and 6 rejection.

39. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over McClauey et al., US Patent Number: 5,930,775 in view of Sellers et al., US Pub. No.: 2001/0044773 (PTO 892 form C).

40. As per claim 17, McClauey et al. further teaches the method of claim 16 described above. McClauey et al. does not teaches:

determining whether a chapter thirteen bankruptcy proceeding, a chapter seven bankruptcy proceeding, a chapter twelve bankruptcy proceeding, or another chapter bankruptcy proceeding is associated with the loan;

setting the second time factor to three months if the chapter thirteen bankruptcy proceeding is associated with the loan;

setting the second time factor to six months if the chapter seven bankruptcy proceeding is associated with the loan;

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setting the second time factor to twelve months if the chapter eleven bankruptcy proceeding is associated with the loan; and

setting the second time factor to three months if another bankruptcy proceeding or an unidentified bankruptcy proceeding is associated with the loan.

Sellers et al. teaches the following steps:

determining whether a chapter thirteen bankruptcy proceeding, a chapter seven bankruptcy proceeding, a chapter twelve bankruptcy proceeding, or another chapter bankruptcy proceeding is associated with the loan (Fig. 13N; ¶ 0077);

setting the second time factor to six months if the chapter seven bankruptcy proceeding is associated with the loan (Fig. 13N; ¶ 0077-0078);

Therefore, it would be prima facie obvious to one of ordinary skill in the art at the time the invention was made to add determining whether a chapter thirteen bankruptcy proceeding, a chapter seven bankruptcy proceeding, a chapter twelve bankruptcy proceeding, or another chapter bankruptcy proceeding is associated with the loan and setting the second time factor to six months if the chapter seven bankruptcy proceeding is associated with the loan features to the method of McClauvey et al. because Sellers et al. teaches that adding the features help to provides a system for automatically obtaining loan workout approval (¶ 0008).

The steps of: setting the second time factor to different months relating to different chapter bankruptcy is the design choices. Please refer to above rejection.

Response to Arguments

41. Applicant's arguments filed 9/5/2007 have been fully considered but they are not persuasive.

42. In response to applicant's arguments, the recitation estimated financial outcome for pool of loans has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

43. As to claim 1, Applicant argues that McClauey do not teach the limitations of applying the estimated financial outcome from the sale of the property associated with the loan yield the estimated financial outcome for the pool. The Examiner disagrees. McClauey discloses "Gross Sales Price, Projected Gross Sales Price, Estimated Total Debt" (Fig. 6), and "methods, system, and article of manufacture generate a comparison model including an ability-to pay rate reflecting an interest rate on the loan reflecting the borrower's ability to repay a loan having the loan conditions, a sale of the real estate before expiration of loan term ... predetermined current return rate, the methods, system, and article of manufacture select an acceptable return rate for the loan" (abstract). Therefore, McClauey teaches the claimed limitation.

Applicant also argues that McClauey fails to disclose obtaining an estimated liquidation time between a last interest date for the loan and a receipt of the net proceeds from the sale of the property". The Examiner disagrees. McClauey discloses Total Days IN PROCESS, Gross Sales Price (Fig. 6), liquidate the nonperforming loan either by the foreclosure or short payoff options (column 6, lines 23-24), analyzing the borrower's financial information to determine ability-to-pay rate reflecting an interest rate indicating the borrower's ability to repay a loan having the

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loans conditions (column 3, lines 1-31), the interest rate for a period of time, capitalizing past due payments (column 2, lines 19-26) and remaining loan term ... number of unpaid loan payments (column 7, lines 1-8). Therefore, McCauley et al. discloses the claimed limitation.

Conclusion

44. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

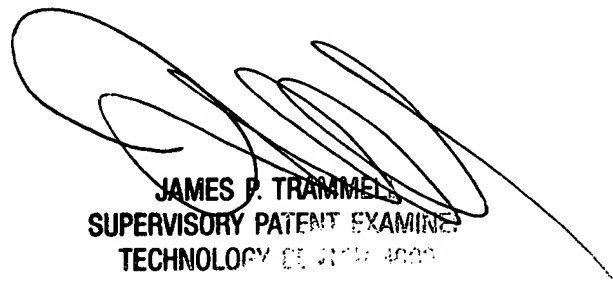
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marissa Liu whose telephone number is 571-270-1370. The examiner can normally be reached on IFP.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



JAMES P. TRAMMELL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 4000